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# AICPA *Washington Report*

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April 14, 1986, Volume XV, Issue 7

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## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

"Elimination of Barriers to Representation by Nonlawyers" is the subject of a tentative recommendation of the Administrative Conference Committee on Regulation, Administrative Conference of the U.S. (see the 4/10/86 Fed. Reg., pp. 12332-33). This topic, according to the Conference, relates to representation by persons other than lawyers of other persons who have a business with a "mass justice agency," defined as an agency program in which a large number of individual claims or disputes involving personal, family, or personal business matters come before an agency. The recommendations contained in this proposal are as follows: (1) Federal agencies that have appearing before them a significant number of unrepresented individuals with personal, family, or personal business claims or disputes should review their regulations regarding representation. The review should be directed towards the goals of authorizing increased representation by nonlawyers, and of maximizing the potential for free choice of representative. (2) If an agency determines that some levels of its proceedings are so complex or specialized that only specially qualified persons can adequately provide representation, then the agency should tailor its eligibility requirements so as not to exclude nonlawyers (including nonlawyers who charge fees) as a class, if at least some nonlawyers, by reason of their knowledge, experience, training or other qualification, can adequately provide the representation. (3) Agencies should declare unambiguously their intention to authorize representation by nonlawyers meeting agency criteria. Where a declaration by an agency may have the effect of preempting state laws (such as "unauthorized practice of law" statutes), then the agency should employ the procedures set out in Recommendation 84-5 with regard to notification of and cooperation with the states and other affected groups. (4) Agencies should review their rules of practice that deal with attorney misconduct (such as negligence, fee gouging, fraud, misrepresentation and representation when there is a conflict of interest) to ensure that similar rules are made applicable to nonlawyers as appropriate. Comments are requested by 5/7/86. For further information contact William Bush at 202/254-7065.

## FARM CREDIT ADMINISTRATION

A proposed amendment relating to disclosure in, and dissemination of, annual reports to shareholders has recently been published for comment by the FCA (see the 4/7/86 Fed. Reg., pp. 11745-48). The proposal requires that beginning with the quarter ending 6/30/86, banks and associations report quarterly to shareholders on the financial condition of the institution within a framework established in the proposal. The quarterly reports will contain rules for condensation for interim balance sheets and interim statements of income, material changes in financial condition, material changes in results of operations, and financial statements. Additionally, the amendment requires the aggregate amount of compensation paid during the previous fiscal year to the top five highest paid officers as a group be disclosed in the annual report; and, each production credit association (PCA) send the financial statement of the Federal intermediate credit bank (FICB) in its district to PCA shareholders along with PCA's annual report to shareholders. Comments are requested by 5/5/86. For additional information contact Thomas J. Holland at 703/883-4452.

## SMALL BUSINESS ADMINISTRATION

Legislation to transfer the SBA to the Department of Commerce, effective 10/1/86, has been sent to Congress, according to a recent announcement by SBA Acting Administrator Charles L. Heatherly. The proposed bill would implement the provisions in President Reagan's fiscal year 1987 budget calling for transfer of the SBA to the Commerce Department and also eliminating SBA credit activities. The proposed legislation would also transfer SBA's loan portfolio to the Department of the Treasury, for continued collection and liquidation. Savings under the proposal, according to the SBA, are estimated at \$1.4 billion in FY '87 and \$5.2 billion over the next three years. Introduction of the proposed bill has not yet occurred in either the U.S. Senate or House of Representatives.

## TREASURY, DEPARTMENT OF

The IRS' toll-free telephone service hours will be extended the four days before the 4/15 filing deadline. In addition to normal business hours, taxpayers needing assistance may call the IRS on Saturday, 4/12, and Sunday, 4/13, from 1:00 p.m. to 5:00 p.m. (EST). The phones will also be open an extra two hours on Monday, 4/14, and Tuesday, 4/15. Toll-free telephone assistance is available in all 50 states, D.C., Puerto Rico and the Virgin Islands. The phone numbers are listed in the tax package instructions and IRS Publication 910, Taxpayer's Guide to IRS Information, Assistance and Publications.

### SPECIAL: NATIONAL INTERGOVERNMENTAL AUDIT FORUM SCHEDULED

The National Intergovernmental Audit Forum's 6th Biennial conference will be held in Seattle, WA 6/8-11/86 in conjunction with 10 Regional Forums. Major issues concerning audit quality, revisions to generally accepted auditing standards (yellow book), single audit and audit resolution will be discussed by governmental leaders. The conference will be held at the Seattle Sheraton Hotel. For further information those individuals living in the western half of the U.S. should contact Roger D. Hayman at 206/442-5356 and those individuals living in the eastern half of the U.S. should contact Joseph Comtois at 202/275-9363.

### SPECIAL: DINGELL SUBCOMMITTEE LOOKS AT REGULATORY ACCOUNTING PRINCIPLES

"Regulatory accounting principles used to inflate the net worth of thrift institutions, as well as the impact of those rules on the Federal Deposit Insurance System" were subjects of a continuing inquiry by the Oversight and Investigations Subcommittee, House Committee on Energy and Commerce in Washington, D.C. on 4/10/86. Chairman John D. Dingell's opening statement, read into the record by Rep. Richard Shelby (D-AL), expressed concern that "the Federal Home Loan Bank Board has an institutional bias towards secrecy" which "directly conflicts with its statutory responsibilities to see that problems at thrift institutions are openly and fairly disclosed...." The second problem, according to Rep. Dingell, "concerns the Bank Board's willingness to use and endorse financial reporting rules which deviate significantly from the generally accepted accounting principles used in other industries."

Witnesses for this hearing included Mr. Frederick D. Wolf, Director, Accounting and Financial Management Division, GAO, Mr. Peter Stearns, former Director, FSLIC, and Mr. William Isaac, former Chairman, FDIC. Mr. Wolf was the lead witness and set the tone for his testimony by asking: "Should federal regulators be allowed to prescribe accounting and reporting rules to artificially inflate the reported financial picture of depository institutions?" He continued his testimony by discussing regulatory accounting principles, deferred losses, appraised equity capital and net worth certificates. During the question and answer session which followed, Mr. Wolf stated that FAS No. 15, Accounting by Debtors and Creditors for Troubled Debt Restructurings was "too liberal" and he said yes to Rep. Shelby who asked "if it was timely to review and change basic accounting rules as they relate to financial institutions?" Mr. Wolf concluded by stating: "We believe that it is imperative that financial institutions, their auditors and their regulators avoid artificial accounting gambits designed to inflate reported equity and take a hard look at the collectibility of problem loans in their portfolios."

Mr. Peter Stearns followed Mr. Wolf and devoted the preponderance of his testimony to the proposition that the Federal Savings and Loan Insurance Fund needs to be immediately recapitalized. Mr. Stearns stated that the Fund needs \$10 billion right now to resolve existing cases and that a total recapitalization of

\$80 billion would be in order. In response to a question from Rep. Shelby, Mr. Stearns stated that the Fund is not bankrupt, because the Government would never allow that to happen. The problem, according to Stearns, was that the industry must help, but they won't face the problem; healthy institutions don't want to get involved.

The final witness was former FDIC Chairman William Isaac. He stated that the lowering of standards and the use of regulatory accounting principles by FSLIC "made things worse." He also stated that FAS No. 15 "is so liberal as to be unrealistic" and that the accounting system should reflect economic reality and should be as neutral as possible. Rep. Shelby then referred to Mr. Isaac's prepared remarks which attributed current banking problems to economic conditions and dishonest management. Rep. Shelby then asked Isaac: "On the basis of this, do you believe there is a need for increased vigilance on the part of the independent auditors in searching for fraud? Should fraud detection be a necessary part of the audit function?" Mr. Isaac replied yes to both questions. Rep. Shelby followed with: "Would more thorough audits help protect the public from the disastrous consequences of bank failures than the regulatory measures currently being proposed?" Mr. Isaac replied: "I believe that both the bank regulatory agencies and the outside independent auditors could...there's a lot of room for both to improve their performance, and if they do, you will have fewer bank failures and those that occur will be far less costly." Additional hearings are currently scheduled for 4/23/86 and 4/28/86.

For further information contact Gina Rosasco, Shirley Hodgson, or Nick Nichols at 202/872-8190.

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